

110977
DECISION



12174
Transp
for G. L. 1000
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-195844.2

DATE: November 30, 1979

MATTER OF: National Investigation Bureau

DIGEST:

1. GAO does not consider incumbent contractor's protest against contracting agency's determination not to exercise contract option under bid protest procedures.
2. Prospective awardee's integrity is matter of responsibility, and GAO does not review affirmative determinations of responsibility except under circumstances not applicable here.

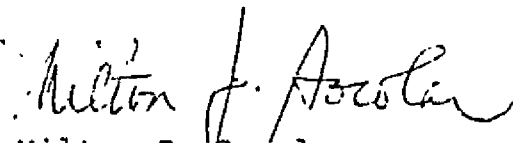
National Investigation Bureau (National) protests the failure of the Department of the Air Force to exercise its option under contract No. F32605-78C-0056 for security services at the Air Force's Concrete MEWS site in North Dakota. National also protests the proposed award of a new contract for these services to the low bidder under solicitation No. F32605-79B-003 on the basis that a federal lien allegedly has been recorded against that company and because the General Services Administration allegedly is currently engaged in a "criminal" investigation of the company.

We have been informally advised that the contract was initially awarded to National for a 1-year term with two additional 1-year options exercisable at the discretion of the Government. In this regard, we point out that we do not consider an incumbent contractor's protest that the agency should have exercised the option, where the option provision of a contract is exercisable at the sole discretion of the Government. C. G. Ashe Enterprises, 56 Comp. Gen. 397 (1977), 77-1 CPD 166; Delta Contracting Co., B-195176, July 5, 1979, 79-2 CPD 11.

National's allegation regarding the award of a contract under the new solicitation, although characterized

as an issue of responsiveness, concerns the low bidder's credit and integrity and is therefore a matter of responsibility, see Mayfair Construction Company, B-192023, September 11, 1978, 78-2 CPD 187; J. P. Mascaro & Sons, Inc., B-192769, November 13, 1978, 78-2 CPD 340, and an award to the low bidder necessarily involves an affirmative determination of responsibility. Medical Devices of Fall River, Inc., B-195057, June 27, 1979, 79-1 CPD 463. We do not review protests against affirmative determinations of responsibility unless either fraud is alleged on the part of procuring officials or the solicitation contains definitive responsibility criteria which allegedly have not been applied. Central Metals Products, Incorporated, 54 Comp. Gen. 66 (1974), 74-2 CPD 64. Neither exception is applicable here.

The protest is dismissed.


Milton J. Socolar
General Counsel